

Court of Appeals, State of Michigan

ORDER

People of MI v John Larry Moore Jr

Docket No. 257198

LC No. 04-000011-FH

Peter D. O'Connell
Presiding Judge

Patrick M. Meter

Bill Schuette

Judges

The Court orders that the motion to remand pursuant to MCR 7.211(C)(1) is GRANTED in PART, and the matter is remanded to the trial court so that appellant may file, within 14 days, a motion for a *Ginther* hearing. Proceedings on remand are limited to whether the trial court properly scored the guidelines, and, if not, whether trial counsel provided ineffective assistance of counsel by failing to preserve the issue with a challenge at sentencing.

Within 14 days of the Clerk's certification of this order, appellant shall file the motion for a *Ginther* hearing on the issue noted above and shall send a copy of the motion and any supporting brief so filed to this Court. The trial court shall hear and decide the matter within 56 days of the Clerk's certification of this order. Appellant shall send a copy of the order deciding the motion to this Court within 14 days of its entry below.

At the motion hearing, the trial court shall make findings of fact and a determination on the record. The trial court shall cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

This Court retains jurisdiction, and the time for proceeding with the appeal in this Court begins upon issuance of an order in the trial court that finally disposes of the remand proceedings. Nevertheless, the appellate proceedings in this Court will recommence if appellant fails to file the motion with the trial court or to send a copy of the pleadings to this Court within 14 days of the certification of this order.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 26 2005

Date

Sandra Schultz Mengel
Chief Clerk